IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMPMO No. 113 of 2007.

Date of Decision: 7th August, 2007

Ashok Kumar. **Petitioner.**

Versus

Santosh Kumar and others. **Respondents.**

Coram

The Hon'ble Mr. Justice V.K. Gupta, C.J.

Whether approved for reporting?[1]

For the petitioner:	Mr. R.L. Sood, Senior Advocate, with Mr. Vikas Rajput, Advocate.
For the respondents:	Mr. D. Dadhwal, Advocate, vice counsel for respondent No.1.

V.K. Gupta, C.J. (Oral)

An order was passed by the learned District Judge, Kangra at Dharamshala on 6th June, 2006 whereby the petitioner was bound to deposit Rs.1,50,000/- in two instalments. This order was challenged by the petitioner in this Court in Civil Revision No.101 of 2006. Upon making certain observations, this Court dismissed Civil Revision No.101 of 2006 as withdrawn with liberty granted to the petitioner to approach the learned Court below for review of the order dated 6th June, 2006. For ready

[1] Whether the reporters of Local Papers may be allowed to see the judgment?

reference, the order dated 3rd November, 2006 passed by this Court is reproduced hereunder, which reads thus:-

> "When the revision petition was taken up for hearing, it was pointed out that in the concluding portion of the order counsel for the present petitioner Ashok Kumar, had made a statement that the amount of Rs.1,50,000/- shall be deposited in two instalments within two months. On this being pointed out Mr. D.D. Sood, learned Senior Counsel, stated that this fact has not been correctly recorded. It is not open for this Court to decide this question.
>
> At this stage, Sh. D.D. Sood, learned Senior Counsel, sought permission to withdraw the present revision petition with liberty to approach the trial Court for reviewing the order dated 6.6.2006. Permission granted.
>
> The revision petition is dismissed as withdrawn with liberty granted to the petitioner to approach the trial Court for review of the order in accordance with law."

Thereafter order dated 5th May, 2007 was passed by the learned District Judge dismissing the review application of the petitioner on a few grounds. It is this order which is under challenge in this petition filed under Article 227 of the Constitution of India.

In the order dated 6th June, 2006, there was a clear observation made by the learned District Judge that the counsel for the petitioner had stated that the petitioner would be depositing

the amount of Rs.1,50,000/- in two instalments within two months. This observation is to the following effect:-

> "Show cause notice is kept pending till deposit of Rs.1,50,000/- by Ashok Kumar alias Harbans Lal, which, as per request of ld. counsel for the respondent, be deposited in two instalments within two months."

This Court in Civil Revision No.101 of 2006 while passing order dated 3rd November, 2006 had clearly noticed the aforesaid statement having been made by the learned counsel for the petitioner. In the order dated 5th May, 2007, the learned District Judge clearly attributed the making of the aforesaid statement by Mr. V.K. Sood, Advocate, who was the counsel for the petitioner when the order dated 6th June, 2006 was passed and who was also the counsel for the petitioner when the order dated 5th May, 2007 was passed. A reading of the order dated 5th May, 2007 clearly shows that Mr. V.K. Sood, Advocate, learned counsel for the petitioner appearing in the Court below did not dispute about his having made the statement that the petitioner would deposit an amount of Rs.1,50,000/- in two instalments in two months.

A reading of the order dated 3rd November, 2006 passed by this Court in Civil Revision No.101 of 2006 clearly indicates about the aforesaid statement having been made by the counsel for the petitioner. There is no scope for interference by this Court. The petition is dismissed.

CMP No.365 of 2007.

In view of the dismissal of the main petition, this application is dismissed. Interim order passed on 1st June, 2007 shall stand vacated.

7th August, 2007. (V.K. Gupta), C.J.
(tr)